

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 28 October 2024

DOCKET NUMBER: AR20240001376

APPLICANT REQUESTS: Reconsideration of his previous request:

- to retain his Student Loan Repayment Program (SLRP) incentive
- awarding Military Occupational Specialty (MOS) 96H (Imagery Ground Station Operator)
- a personal appearance before the Board

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- self-authored statement
- DD Form 214 (Certificate of Release or Discharge from Active Duty) for service ending 16 August 1995
- DD form 4 (Enlistment/Reenlistment Document Armed Forces of the United States) for enlistment dated 19 October 2006
- DD Form 1966 (Record of Military Processing – Armed Forces of the United States) for enlistment dated 19 October 2006
- Enlistment/Reenlistment Agreement Army National Guard (ARNG) Service Requirements and Methods of Fulfillment for enlistment dated 19 October 2006
- Enlisted Conversion Tables
- Annex S to DD Form 4 SLRP Addendum ARNG of the United States for enlistment dated 19 October 2006
- National Guard Bureau (NGB) Form 337 (Oaths of Office)
- NGB Memorandum, Subject: Request for Exception to Policy (ETP) for SLRP (Captain (CPT) C-, A-) (the applicant)
- Army Regulation (AR) 601-210 (Regular Army and Army Reserve Enlistment Program) excerpt

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in:

a. Docket Number AR20150008099 on 21 April 2016, the Board determined there was no evidence the applicant was qualified and held the contracted SLRP MOS of 96H during his enlisted service.

b. Docket Number AR20160019418 on 27 August 2019, the Board found relief was not warranted. Based on the evidence provided by the applicant and his service record, the Board found there was no MOS conversion, and his medical record did not corroborate his contentions. Based on the preponderance of the evidence. The Board determined there was insufficient evidence to ament the previous Board's decision.

c. Docket Number AR20210006359 on 9 August 2021, the Board found that relief was not warranted. The Board considered the applicant's service record, documents provided and applicable law, policy and regulation. The terms of his contract required him to remain in the contracted MOS for the first 3-years of his enlistment contract. Policy provides for the termination with recoupment may be exercised if the recipient moves to a non-bonus skill or unit, unless the move was due to normal career progression or required by the needs of the ARNG. The applicant was not qualified in the contracted MOS and he did not hold the skill for which contracted which in turn violated the Department of Defense Instruction (DoDI) 1205.21 (Reserve Component Incentive Programs Procedures). The Board determined the evidence presented did not demonstrate the existence of a probable error or injustice.

2. The applicant states he requests the correction of his service record to show he was awarded MOS 96H when he enlisted in the ARNG on 19 October 2006 from his service in the U.S. Navy in MOS 1733 (Electronic Warfare System Technician) which would qualify him to be paid monies for the SLRP. He served in the ARNG as an enlisted Soldier for 3-years and 9-months, which was more than the minimum requirement of 3-years to prevent the recoupment of the incentive when he was commissioned on 15 August 2010. He also requests the remission and cancellation of his indebtedness for the SLRP.

3. A review of the applicant's service record shows:

a. DA Form 2-1 (Personnel Qualification Record) in item 6 (MOS):

- Officer Candidate School (OCS) Candidate (09S)
- Trainee Unassigned – 19 October 2006 (09B)
- Maintenance and Munitions Materiel Officer (91A)
- Awaiting Officer Basic Course (00D)

b. DA Form 2-1 in section VII (Current and Previous Assignments):

- 19 October 2006 – duty MOS 96H (Imagery Ground Station Operator)

- 24 March 2007 – duty MOS 96H (Common Ground Station (CGS) Operator)
- 24 June 2008 – duty MOS 92Y (Supply Specialist)
- 1 September 2008 – duty MOS 92Y (Supply Specialist)
- 6 July 2009 – duty MOS 09S (Supply)
- 13 August 2010 – duty MOS 92Y (Supply Specialist)

c. On 17 August 1989, the applicant enlisted in the U.S. Navy.

d. On 16 August 1995, the applicant was honorably released from active duty. DD Form 214 shows he completed 6-years of active service. It also shows in item 11 (Primary Specialty):

- 1738 (Electronic Warfare Journeyman Maintenance Technician) – 2-years and 3-months
- 1733 (Electronic Warfare Systems Technician) – 2-years and 10-months

e. On 21 February 2006, Orders Number 051-013, issued by Headquarters (HQs), U.S. Army 95th Adjutant General Battalion (Reception), the applicant was attached to 1st Battalion, 515th Regiment Regional Training Institute with follow-on training at White Sands Missile Range, effective 23 February 2007 for Warrior Transition Course for 5-weeks.

f. On 19 October 2006, the applicant enlisted in the ARNG for 6-years in the grade of E-4.

g. DD Form 1966 shows the applicant enlisted on 19 October 2006 in MOS 96H. Item 32a (Specific Option/Program Enlisted for) shows the applicant enlisted for 6-years in MOS 96H with the SLRP incentive.

h. Enlistment/Reenlistment Agreement ARNG Service Requirements and Methods of Fulfillment shows the applicant agreed to serve 6-years in the Selected Reserve. He was assured he would attend the 96H course. He understood as a prior service Soldier he may be required to attend full time training duty to become qualified in his contracted MOS if he was not already qualified. After completion of active duty for training, he would serve the remaining period of his enlistment with his assigned unit.

i. Annex S to DD Form 4 SLRP Addendum ARNGUS stated the applicant was eligible for the SLRP, he was a NG applicant who served the last 3-years in the ARNG and was immediately reenlisting for a term of 6-years in the ARNGUS. He held the primary MOS for the position for which he was reenlisting in a valid position vacancy and in the critical MOS of 96H that was authorized the SLRP. He must remain in the

contracted MOS for the first 3-years of his enlistment contract. Section V – Termination states he understood he would be terminated from the SLRP if he:

- Voluntarily transferred out of his contracted MOS and/or SLRP eligible unit prior to the third year anniversary
- Separated from the ARNG for any reason
- Accepted a commission as an officer
- Failed to become MOS qualified within 24-months after unit inactivation, reorganization or relocation

j. On 19 October 2006, Orders Number 6292005, issued by the Military Entrance Processing Station, the applicant was ordered to initial active duty for training for Warrior Transition course, effective 13 February 1997 in MOS 96H.

k. On 23 March 2007, the applicant was released from active duty. DD Form 220 (Active-Duty Report) shows the applicant completed 37-days of active service when he graduated from the Warrior Transition Course.

l. On 13 March 2007, Orders Number 072-013, issued by the U.S. Army Garrison White Sands, the applicant was released from attachment to the Warrior Transition Course, effective 23 March 2007.

m. On 27 May 2009, Orders Number 147-517, issued by HQs, Iowa NG Office of the Adjutant General, the applicant was ordered to active duty for training to attend OCS Phase I, effective 12 June 2009.

n. On 14 August 2010, the applicant was honorably discharged from the ARNG. NGB Form 22 (Report of Separation and Record of Service) shows the applicant completed 3-years, 9-months, and 26-days of service. It also shows in item 13 (Primary Specialty Number, Title and Date Awarded): 09S (OCS Candidate) and 09B (Trainee).

o. On 15 August 2010, the applicant executed his oath of office and was appointed as a Reserve commissioned officer in the rank/grade of second lieutenant (2LT)/O-1.

p. On 15 August 2010, the applicant executed his oath of office and was appointed in the Iowa ARNG in the rank of 2LT and was extended temporary Federal recognition.

q. Iowa NG OCS certificate shows the applicant successfully completed OCS Class 55-10 during the period of 11 July 2009 through 15 August 2010.

r. On 20 August 2010, Orders Number 232-013, issued by HQs, Iowa NG Office of the Adjutant General the applicant was appointed in the ARNG in the rank of 2LT, effective 15 August 2010.

s. On 25 August 2010, Orders Number 237-033, issued by HQs, Iowa NG Office of the Adjutant General the applicant was reduced to the rank of specialist and was awarded MOS 09B1O and MOS 09S3O and 09B3O were withdrawn, effective 13 August 2010.

t. On 25 August 2010, Orders Number 237-074, issued by the by HQs, Iowa NG Office of the Adjutant General, the applicant was honorably discharged from the ARNG, effective 14 August 2010.

u. On 6 December 2010, Special Orders Number 269, issued by the NGB, the applicant was appointed in the Iowa ARNG in the rank of 2LT, effective 15 August 2010 and Federal recognition was extended.

v. DA Form 1059 (Service School Academic Evaluation Report) shows the applicant achieved course standards at the Ordnance Basic Officer Leader Course during the period of 28 April through 25 August 2011.

w. On 22 June 2018, Orders Number 173-016, issued by the by HQs, Iowa NG Office of the Adjutant General, the applicant was honorably released from the ARNG and assigned to the U.S. Army Reserve (USAR) Control Group (Individual Ready Reserve (IRR)), effective 24 June 2018.

x. NGB Form 22 shows the applicant was honorably released from the ARNG and assigned to the USAR Control Group (IRR), effective 24 June 2018. It also shows the applicant completed 7-years, 10-months, and 10-days of service.

y. On 25 July 2018, Special Orders Number 168, issued by the NGB, the applicant's Federal recognition was withdrawn, effective 24 June 2018, due to transfer to the USAR.

z. The applicant was ordered to active duty in support of Operation Enduring Freedom Conus Support Base (CSB), effective 15 March 2019.

aa. On 4 December 2022, the applicant was honorably released from active duty. DD Form 214 shows the applicant completed 3-years, 8-months and 20-days of active service.

bb. DD Form 214 shows the applicant was ordered to active duty in support of Operation Enduring Freedom CSB, effective 5 December 2022. He was honorably released from active duty on 15 January 2024. It also shows he completed 1-year, 1-month, and 11-days of active service.

4. The applicant provides:

a. Enlisted conversion table from DoDI 1312.1-1 (Occupational Conversion Index) page 50 which shows the MOS 96H (Imagery Ground Station Operator) from the U.S. Army and the MOS 1733 and MOS 1738 from the U. S. Navy.

b. NGB Memorandum dated 17 December 2014, Subject: Request for ETP for SLRP (CPT C-A-) (the applicant) stated the applicant's request for an ETP to retain his \$20,000.00 SLRP was denied. The State Incentive Manager would terminate the incentive with recoupment effective the start date of his contract. The applicant did not qualify in his contracted MOS which violated DoDI 1205.21. He enlisted on 19 October 2006 in the contracted MOS of 96H and he did not hold that skill and therefore, the ETP cannot be granted.

c. Excerpt from AR 601-210, paragraph 7-7 (Enlistment training options available) subparagraph e, option 5 is available to prior service applicants. Applicants who fall into this enlistment option will not be required any proficiency or prerequisite training to be conducted at an initial active duty for training location. Their proficiency or prerequisite training as required per the MOS is which they are enlisting for will be conducted during normal inactive duty training at their respective duty.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation, and published Department of Defense guidance for liberal and clemency determinations requests for upgrade of his characterization of service. Upon review of the applicant's petition, available military records and NGB Memorandum, dated 17 December 2014, the Board determined the applicant enlisted in the ARNG on 19 October 2006 from his service in the U.S. Navy in MOS 1733 (Electronic Warfare System Technician). The record shows the applicant enlisted on 19 October 2006 in MOS 96H. Item 32a (Specific Option/Program Enlisted for) shows the applicant enlisted for 6-years in MOS 96H with the SLRP incentive.

2. During deliberation, the Board found in accordance with his DD Form 4 SLRP Addendum ARNGUS which stated the applicant was eligible for the SLRP, he was a NG applicant who served the last 3-years in the ARNG and was immediately reenlisting for a term of 6-years in the ARNGUS. He held the primary MOS for the position for which he was reenlisting in a valid position vacancy and in the critical MOS of 96H that was authorized the SLRP. He must remain in the contracted MOS for the first 3-years of his enlistment contract. Furthermore, according to Section V9 Termination) of his SLRP contract if he accepted a commission as an officer, it would terminate his contract. The

3. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

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The Board found the evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis to amend the decision of the ABCMR set forth in Docket Number AR20150008099 on 21 April 2016, AR20160019418 on 27 August 2019 and AR20210006359 on 9 August 2021.

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REFERENCES:

1. Title 37, United States Code, section 373, allows for the recoupment of an unearned portion of a bonus, incentive pay, or similar benefit, and termination of remaining payments, when conditions of payment are not met.
2. DoDI 1205.21 (Reserve Component Incentive Programs Procedures) prescribes procedures for incentive programs. Section 6.2 (Written Agreements) states, in part, as a condition of the receipt of an incentive covered by this instruction, each recipient shall be required to sign a written agreement stating the member has been advised of and understands the conditions under which continued entitlement to unpaid incentive amounts shall be terminated and which advance payments may be recouped. That agreement shall clearly specify the terms of the Reserve service commitment that authorizes the payment of the incentive to the member.
3. Army National Guard (ARNG) Selective Reserve Incentive Program Guidance for Fiscal Year 2007, Policy Number 07-01, effective 1 October 2006, provided specific requirements for those receiving the SLRP.
 - a. The ARNG offers the SLRP as an enlistment incentive for all prior service enlistees. The total amount of SLRP will not exceed \$20,000.00 with a maximum payment of 15 percent or \$500.00 per year, whichever is greater (53,000 cap per Soldier per year). Payment is based upon the original principle and does not include interest. The enlistee must meet several criteria.
 - b. The incentive would be terminated with recoupment if the recipient moves to a non-bonus skill or unit, unless the move is due to normal career progression or is required by the needs of the ARNG.
4. National Guard Regulation 600-7 (Selected Reserve Incentives Programs (SRIP)) in effect at the time, prescribes policies and procedures for the administration of the Army National Guard of the United States (ARNGUS) incentive programs; SLRP.
 - a. Paragraph 1-9 (Educational Requirements), the Enlistment Bonus (EB) and the Student Loan Repayment Program (SLRP) incentives may be granted to Soldiers who meet the educational eligibility criteria and who have the credentials of a secondary school graduate as defined in the glossary under educational levels.
 - b. Paragraph 2-24 (Eligibility) states the SLRP may be offered to current ARNG members who meet the following requirements:

- Soldiers who previously contracted for the SLRP in the Selected Reserve are only entitled to the maximum benefit established by the original contract, minus any money previously paid under the contract
- Enlist/affiliate or reenlist/extend for a minimum of three years
- Enlist into a Critical Skill vacancy as outlined in the current FY SRIP policy
- Have one or more disbursed qualifying loans

5. AR 15-185 (ABCMR), the ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//